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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,965	02/11/2005	James Smith	93437	8572
24628 7590 01/06/2010 Husch Blackwell Sanders, LLP Husch Blackwell Sanders LLP Welsh & Katz 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				
EXAMINER				
CROUSE, BRETT ALAN				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
01/06/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/516,965

Applicant(s)

SMITH ET AL.

Examiner

Brett A. Crouse

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 October 2009 has been entered.

Response to Amendment

2. The rejection of Claims 22-27 under 35 U.S.C. 103(a) as being unpatentable over Baillie et al., WO 02/075205, in view of Vakil, US 5,634,820 and 10516965 Stob, US 4,991,070 is withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 22 as amended recites "relatively constant". The term relatively is unclear as to the range of included values.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al., WO 02/075205, in view of Stob, US 4,991,070 and Cicarelli US 4,991,070.

Baillie teaches:

As to claim 22:

Page 2, lines 5-10, teach that the light fittings are used in proximity to an artificial light source and comprise a luminescent material which is charged by the light emitted by the light source and which emits light when the light source is extinguished. This is held to teach that the luminescent material satisfies the limitation of a phosphor of the instant invention.

Page 4, line 20 through page 5, line 7, teach that the light fittings of Baillie include light and lamp shades, light reflectors, light bulbs, light tubes including fluorescent light tubes, covers of light sources, strip light protective sleeves. The passage additionally teaches that the articles can be covered in part or in their entirety.

Page 5, lines 11-13, teach the light fitting can be in proximity to the light source. This is held to encompass being spaced from the light source.

Page 6, lines 12 through page 7, line 7, teach that the base material should preferably be of high clarity to allow transmission of light. The passage additionally teaches that the luminescent material can be incorporated into the base material or can be provided as a film or coating upon the base material.

Page 11, lines 9-15, teach the fitting providing connection pins for a fluorescent tube. Baillie provides a fluorescent tube in which the mounting (i.e. the fitting of Baillie) encompasses the tube by being integral with the tube and provides connection pins for the fluorescent tube as part of the mounting. Baillie also teaches sleeves which can encompass a light tube. Baillie also teaches protective sleeves spaced in proximity to the tube.

As to claims 23-25:

Page 5, line 14 through page 6, line 2, teaches the fitting can be formed from various base materials including glass and plastics. Examples of suitable plastics include acrylics, polyolefins such as polypropylene, polystyrene and polycarbonate.

As to claims 26 and 27:

Page 3, lines 4-9, teach that the luminescent material is preferably a rare earth metal such as europium. Additionally, the luminescent material preferably also comprises an alkaline earth metal, which is preferably strontium.

Page 6, lines 5-11, teach that the preferred embodiment of the luminescent material comprises europium or dysprosium preferably in combination with strontium oxides or aluminates. It is held that one of ordinary skill in the art would at once envisage the luminescent material comprising strontium aluminate(s) and europium.

Baillie does not teach:

Baillie does not provide a teaching of friction fit end piece as part of a sleeve encompassing a fluorescent tube. Baillie also does not recite equidistant spacing for a fitting from the fluorescent tube.

Regarding the distance between the light tube and light fitting:

Stob teaches:

Column 2, lines 12-46, figures 4, 5, 6, teach a sleeve for receiving a conventional fluorescent element which is closed off at opposite ends by end caps. The sleeve provides protection for the tube and assists in controlling the direction of the observed light output. The passage additionally teaches that the tube can be rotated relative to the element. The figures indicate a uniform spacing between the fluorescent tube and longitudinal sleeve wall.

Column 5, lines 22-27, figure 4, teaches the end caps further comprise apertures (50) through which the prongs of the element (52) can penetrate.

Regarding the use of a friction end cap:

Column 5, lines 1-10, figure 4, teach end caps that slidably engage the wall of the tube.

The passage further describes figure 4 and teaches that the end cap 40, comprises a rim 42, which slidably and rotatably mount to the tube 12. The passage further teaches that the rim slidably engages the wall 19 of the tube 12. Thus, the rim of the end cap is in frictional contact with the wall 19 of the protective tube 12.

It would have been obvious to one of ordinary skill in the art to provide a protective sleeve as taught by Stob as the base material to the sleeve of Baillie to provide protection to the fluorescent tube and to allow for control of the direction of emission of light from the fixture of Baillie as suggested by Stob.

Column 3, lines 40-44, teach selecting materials for the sleeve which are resistant to the heat generated by the light tube.

It would have been obvious to one of ordinary skill in the art to select materials resistant to the heat generated by the light tube and to configure the materials to efficiently dissipate the heat to which the sleeve is exposed in order to prevent the thermal degradation of the materials of the sleeve or dopants therein.

Cicarelli teaches:

Cicarelli is added to clarify the state of the art concerning end-caps for fluorescent light fixtures.

Column 4, line 62 through column 5, line 13 and figures 3, 4, 4a, which indicate that various types of end-caps are available and common to the fluorescent fixture industry. The passage from Cicarelli also indicates it was also known to use an end-cap to secure a sleeve to a fluorescent tube.

It is believed by the examiner that Baillie in view of Stob teaches or suggests all the elements of the instant claims.

However, it would have been obvious to one of ordinary skill in the art to select an end-cap for securing a sleeve to a light tube by frictional contact from those commonly known in the industry and to use such an end-cap to secure the sleeve of the light fixture of Baillie.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Cicarelli is added to show the state of the art and to further clarify that friction fit end caps were commonly known in the art at the time of invention by applicant.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett A. Crouse whose telephone number is (571)-272-6494. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. A. C./
Examiner, Art Unit 1794

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit
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